

State of Wisconsin \ Government Accountability Board

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Sent by email only to catherine.meza@usdoj.gov

April 3, 2013

Catherine Meza, Trial Attorney
Civil Rights Division, Voting Section
United States Department of Justice
950 Pennsylvania Avenue, NW
Room 7151-NWB
Washington, DC 20530

Dear Attorney Meza:

This correspondence provides the status report of the State of Wisconsin concerning its efforts to ensure that military and overseas electors have the full opportunity to vote guaranteed by UOCAVA in federal elections. This status report is required by paragraph (10) of the consent decree entered into between the United States Department of Justice and the State of Wisconsin, and approved by the federal court in *United States of America v. State of Wisconsin, et al.*, Case No. 12-CV-197 in the U.S. District Court, Western District of Wisconsin. We appreciate the Department of Justice granting us a brief extension to submit this report

Since the enactment of the Military and Overseas Voter Empowerment Act of 2009 (MOVE Act), Wisconsin has made significant legislative and administrative improvements to the election process to enhance voting opportunities for UOCAVA electors, in addition to implementing the federal requirements. At the urging of the Government Accountability Board, the Wisconsin Legislature moved the date of the fall Partisan Primary from the second Tuesday in September to the second Tuesday in August and moved the date of the Presidential Preference Primary from the third Tuesday in February to the first Tuesday in April. These statutory changes removed a structural barrier to complying with the MOVE Act and were made to allow ballots to be delivered to UOCAVA voters in a timely manner.

The Legislature also enacted a requirement that absentee ballots must be transmitted to UOCAVA electors who had a request on file 47 days before a federal election, rather than the 45-day requirement of the MOVE Act. Absentee ballots in Wisconsin are counted if they are postmarked by Election Day and are received by 4 p.m. on the Friday following the election. These statutes provide up to 50 days for UOCAVA electors to receive, vote, and return their absentee ballot. The statutory deadline is noted in the absentee ballot instructions which accompany each ballot that is transmitted to military and overseas voters.

In the fall of 2012, the Government Accountability Board (G.A.B.) also launched the MyVote Wisconsin website (<http://myvote.wi.gov>) to allow military and overseas voters to request and access their ballots online. This online absentee ballot delivery system for UOCAVA voters was created with funds received from a \$1.9 million grant from the Federal Voting Assistance Program through the Electronic Absentee Systems for Elections (EASE) project. The highlights regarding the use of this new site during the 2012 Presidential and General Election include the following:

- 1,863 UOCAVA voters accessed their ballot through MyVote Wisconsin (3,496 requested ballots by email, fax or mail).
 - 1,388 military voters accessed their ballot online (1,652 by email/fax/mail).
 - 475 Overseas voters accessed their ballot online (1,844 by email/fax/mail).

- More UOCAVA voters in Wisconsin accessed their ballot online through MyVote Wisconsin than by any other single means of ballot delivery (email, fax, or mail).
- MyVote Wisconsin significantly reduced absentee ballot transit time for UOCAVA voters.
 - Average transit time of 12 days using MyVote Wisconsin versus 25 days for all UOCAVA voters.
 - Average transit time of 11 days using MyVote Wisconsin versus 24 days for all military voters.
 - Average transit time of 15 day using MyVote Wisconsin versus 25 days for all overseas voters.
- Wisconsin UOCAVA voters did not experience a statistically significant difference in absentee ballot rejection rates between the ballots delivered online compared to traditionally delivered ballots (email, fax, or mail).
- The 2012 Presidential and General Election in Wisconsin experienced the lowest rejection rate for all UOCAVA absentee ballots in the last three general elections.

The G.A.B. has continually communicated with municipal and county clerks to emphasize compliance with UOCAVA, and to provide assistance to proactively resolve any issues. Beginning in January 2012, our office sent 12 separate communications to local election officials explaining the ballot transmission and reporting requirements for military and overseas voters during the 2012 elections. We verified that all 72 county clerks prepared and delivered the November election ballots to municipal clerks in time for the ballots to be transmitted by the deadline.

Pursuant to the consent decree, our office collected information regarding the transmission of absentee ballots to military and overseas voters and the return of those ballots. Board staff, along with temporary staff hired specifically to collect information regarding MOVE Act compliance, made hundreds of phone calls and repeat calls to 1,851 municipal clerks in order to get all information required by the consent decree reporting requirements. We identified specific delivery problems and reported them to the U.S. Department of Justice. We intervened in the small number of cases where ballots were sent out shortly after the 45-day deadline, and followed up with municipal clerks to determine that ballots had been delivered and to track their return. In all, we estimate that staff dedicated well over 2,000 hours ensuring compliance with the terms of the consent decree. This figure does not account for the time and effort that municipal and county clerks dedicated to serving UOCAVA voters.

While a total of four UOCAVA ballots were transmitted late for the 2012 Presidential and General Election, the protections provided under Wisconsin laws and the consent decree still afforded those voters at least 45 days to receive, vote, and return their ballots. The overwhelming majority of UOCAVA ballots were transmitted timely, and we continue to work diligently with our municipal and county clerk partners to reinforce the importance of prompt ballot delivery in future elections for all voters, especially military and overseas electors.

Since early 2012, state and local election officials in Wisconsin have been in a nearly constant state of election preparation and administration due to a large number of special and recall elections. Following yesterday's Spring Election, we are not scheduled to have another regular statewide election until February 2014. The G.A.B. will take this opportunity to further evaluate efforts to serve UOCAVA voters and tailor its training of local election officials based upon our experiences in the 2010 and 2012 federal elections. One effort that is in progress is improving the MyVote Wisconsin website, increasing clerks' familiarity with its requirements and workflow, and promoting its use to UOCAVA voters. We see greater use of that voter portal as a promising opportunity to significantly reduce the ballot transit time for greater numbers of military and overseas voters.

Wisconsin is firmly committed to improving the voting experience for military and overseas voters, and for all voters. The Government Accountability Board is proud of what has been accomplished in partnership with the Legislature, local election officials, and uniformed services representatives to comply with the requirements of the MOVE Act and to enhance the ability of UOCAVA voters to exercise their right to vote. We look forward to building upon those successes in the future.

We trust that this correspondence has outlined the aggressive steps Wisconsin has taken to improve the voting experience for UOCAVA voters, and the efforts we will continue in the future. If you need any additional information please contact, Michael Haas, the Elections Division Administrator at 608-266-0136 or Michael.Haas@wi.gov.

Wisconsin Government Accountability Board

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style.

Kevin J. Kennedy
Director and General Counsel

cc: Members, Wisconsin Government Accountability Board